

## **REMARKS**

Claims 1-12 and 19-26 are pending in the application, claims 13-18 being canceled and claims 20-26 being newly added herein. Claims 1, 9, 20, and 25 are the only independent claims.

### ***Claims Rejections - 35 U.S.C. §§ 102 and 103***

Claims 1-9 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,984,917 to Fleischman et al. ("Fleischman") in view of U.S. Patent No. 6,547,821 to Taylor et al. (Taylor"). This rejection is understood to be a rejection under 35 U.S.C. § 103.

Claims 2-8, 10-12, and 19-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fleischman in view of U.S. Patent No. 5,954,747 to Clark, U.S. Patent No. 4,741,330, and Taylor.

**Claim 1** Claim 1 has been amended herein to clarify part of the original language. The term "close off" means that the opposite walls of the heart are brought into contact with one another, as shown in drawing Figures 3B and 4F. Applicant respectfully maintains that claim 1 as so amended distinguishes over the art of record and in particular over Fleischman and Taylor, the two references relied on by the Examiner in rejecting claim 1.

As set forth in amended claim 1, a method for improving cardiac function comprises inserting a tensile member into a patient and inserting the tensile member into the patient's heart so as to bring opposite walls of each ventricle of the heart into contact with one another to thereby constrict and close off lower portions of both ventricles of the heart.

Fleischman discloses a method for reducing the volume of an atrium. But Fleischman does not disclose or suggest bringing opposite walls of each ventricle of the heart into contact

with one another to thereby constrict and close off lower portions of both ventricles of the heart.

Taylor discloses a method for restricting motion of a portion of the patient's myocardium. Taylor does not disclose or suggest bringing opposite walls of each ventricle of the heart into contact with one another to thereby constrict and close off lower portions of both ventricles of the heart.

**Claim 9** Claim 9 has also been amended to provide a better or more precise definition of the invention. As set forth in amended claim 9, a method for reducing ventricular volume comprises inserting a flexible catheter into a ventricle of a patient's heart, deploying a cardiac insert or implant from a leading end of said catheter, and disposing said cardiac insert or implant in the patient's heart to bring opposite walls of at least one ventricle of the heart into contact with one another to thereby reduce the volume of the at least one ventricle of the patient's heart.

Neither Fleischman nor Taylor discloses or suggests disposing a cardiac insert or implant in a patient's heart to bring opposite walls of at least one ventricle of the heart into contact with one another to thereby reduce the volume of the ventricle.

**Claims 20 and 25** Claims 20 and 25 have been amended herein to include new language similar to that of claim 9. Claims 20 and 25 distinguish over the cited references for the same reasons presented above with respect to claim 9.

An Information Disclosure Statement, Citation Form, and a check including the amount of One-Hundred-and-Eighty Dollars (\$180) for late submission of an Information Disclosure Statement are enclosed herewith.

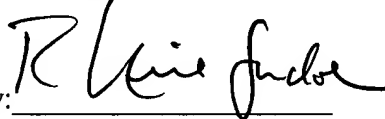
### *Conclusion*

For the foregoing reasons, independent claims 1, 9, 20, and 25, as well as the claims dependent therefrom, are deemed to distinguish over the art of record. Accordingly, claims 1-12 and 19-26 appear to be in condition for allowance. An early Notice to that effect is earnestly solicited.

Should the Examiner believe that direct contact with applicant's attorney would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the number below.

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